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of the Permanent Court of International Justice and the Netherlands Government (in an exchange of letters with addenda "General Principles" and "Rules of Application") in 1928 (5). These provisions were also reflected to some extent in domestic law (4). Members of the International Bureau of Labor were accorded immunities in a number of countries, without any special agreements with the governments of these countries. Immunity was also enjoyed by members of a number of international commissions established in pursuance of peace treaties (5).

Meanwhile, the question of immunity of delegates and personnel of international organizations -- principally of the League of Nations -- began to evoke interest in the field of doctrine. The Institute of International Law, at its session in Vienna in 1924, adopted a special resolution on the interpretation of Article 7 of the Statute of the League of Nations (6). Special works were published on this matter, aside from the place it had been accorded in the general courses on international law. However, it should be pointed out that attempts to codify this problem in the manner of diplomatic immunities came to no valuable result.

Now that the United Nations Organization and a number of related international agencies having a considerable number of staff personnel have been established, there can be no doubt that the problem of so-called "international officials" will become more acute. In the Charter of the United Nations, Article 105 on the problem of immunity, states:

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization" (7).

The Statute of the International Court of Justice has accorded diplomatic privileges and immunities to members of the Court.

During the work of the Preparatory Commission of the United Nations, the Sixth Committee prepared a draft Convention on Privileges and Immunities of the United Nations, which was approved by the General Assembly on 13 February 1946 during the first part of its first session (8). In the final article it was provided that "The Secretary General may conclude with any Member or Members supplementary agreements adjusting the provisions of this convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the General Assembly" (Section 36).

According to this provision, the Sixth Committee had also prepared a plan for an agreement between the United Nations and the United States on the status of the headquarters of the United Nations on United States territory. This plan served as a basis for the agreement signed by the Secretary General of the United Nations and the Secretary of State of the United States on 26 June 1947 which became effective on 4 August 1947 (9). According to Article 9 of this agreement, "The conditions of this agreement shall be complementary to the provisions of the General Convention and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this agreement shall prevail" (Section 26)(10). In the official United Nations document, both English and Russian texts, Section 26, reads as follows: "The provisions of this agreement shall be complementary to the provisions of the General Convention. Insofar as any provision of this agreement and any provisions of the General Convention relate to the same subject matter, the two provisions shall, wherever possible, be

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treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of absolute conflict, the provisions of this agreement shall prevail."

Even before the conclusion of the aforementioned international act, separate international instruments appeared which regulated the status of the officials of international organizations. The first such law was passed in England in 1944. This was a Parliamentary Act extending diplomatic privileges ("Diplomatic Privileges Extension Act," 1944). It represented a supplement to the 1709 Act and contained provisions regarding diplomatic privileges and immunities of international organizations, their staffs, representatives of Member States and also premises and documents. The Act provides the right for the executive power (by King's orders in Council) to extend these privileges and immunities to international organizations, where Great Britain is represented as a Member (11). On these grounds orders were passed in the Council in 1945 extending privileges and immunities in the Act to the UNRRA, the United Nations Information Organization, the Committee on Refugees, the Consultative Committee for Europe, and finally to the United Nations and the Preparatory Commission of the United Nations, including officials and delegates of States to these organizations (12).

Toward the end of 1945 the Congress of the United States passed the "Statute Extending Privileges, Exemptions, and Immunities to International Organizations and to the Officers and Employees Thereof" (Public Law No 291, 79th Congress), according to which the President was authorized to accord by executive order to any "public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making appropriation for such participation," privileges, exemptions and immunities provided for in the Statute with regard to the properties of such organization, its officers, employees and members of their families. Moreover, the President was given the right to withdraw, by an appropriate executive order, from such an organization or its officials and employees any of the privileges, exemptions and immunities, to limit their application, or finally to exclude such organization from the number of those to which the present law was extended (13). By the Executive Order of 19 February 1946, based on the above Statute, the President extended the privileges, exemptions, and immunities provided by the Statute to the United Nations Organization, the United Nations Food and Agricultural Organization, the UNRRA, the International Labor Organization, etc. (14).

The regulative acts cited above give sufficient grounds to draw conclusions on the immunity of United Nations delegates and staff members, despite the lack of sufficient practice in the application of the pertinent standards.

On the basis of Article 105 of the United Nations Charter, which outlines the immunities of the Organization as a whole (Paragraph 1) and those of representatives of its members and officials (Paragraph 2), and through analysis of the regulative acts cited above, we can establish three categories of persons who enjoy immunities of varying nature and scope in connection with their United Nations activities.

The first category comprises the permanent or temporary delegates of States represented in the main organs of the United Nations. The immunity of these persons, in substance, amounts to that of diplomatic representatives or delegates at international conferences and congresses (15). In the Convention on Privileges and Immunities of the United Nations there appears, after the enumeration of privileges accorded representatives of the Members, the provision (Section II, Paragraph g) that representatives of Members enjoy

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"such other privileges, immunities and facilities, not inconsistent with the foregoing, as diplomatic envoys enjoy" (16). The agreement between the United Nations and the United States provides (Section 15) that "(1) Every person designated by a Member of the United Nations as a principal resident representative with the rank of ambassador or minister plenipotentiary, (2) Such resident members of their staff as may be agreed upon between the Secretary General, the Government of the United States and the Government of the Member concerned ... whether residing inside or outside of the headquarters district (of the United Nations--author), be entitled on the territory of the United States to the same privileges and immunities, subject to corresponding conditions and obligations, as it accords to diplomatic envoys accredited to it" (17).

The second category comprises the higher officials of the United Nations. The immunity of these persons corresponds as a rule to the immunity of diplomatic representatives as to nature and scope. The Convention on Privileges and Immunities of the United Nations states (Section 19): "In addition to the immunities and privileges specified in Section 18 (dealing with immunities of all United Nations officials--author), the Secretary General and all Assistant Secretaries General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with the international law" (18).

The third category comprises all other officials of the United Nations. In the Convention on Privileges and Immunities, the privileges and exemptions of persons in this third category are considerably more restricted than those of persons of the first two categories, and extend mainly to actions performed in their official capacity.

In the final analysis we have on the one hand the immunities of delegates of States and high officials of the United Nations, which are essentially identical, and on the other, the immunities of all other staff members of the organization (19).

Let us now examine the nature and scope of the different kinds of immunities of United Nations delegates and officials in the categories established above.

Personal Immunities

In foreign bourgeois literature we find the opinion that international officials should not be entitled to extraordinary defense in criminal procedures, since an infringement on their person, as opposed to infringement on the person of a diplomatic representative, concerns only the individual in question and does not impair the normal relations between States. Re., for example, has made statements to this effect (20).

We definitely cannot subscribe to this opinion. Higher officials of an international organization, in this case the United Nations, who are invested with certain functions for maintaining peace and international cooperation, can naturally become the object of prejudice on the part of aggressive elements. If we were to refuse these persons the right to extraordinary defense given diplomatic representatives of all countries abroad, it would not only weaken the authority of the international organization or the individual State represented in it, but it would also impair the principles of peace and international collaboration.

This conclusion is clearly confirmed by an unfortunate incident which occurred during the as yet brief existence of the United Nations headquarters in United States territory. In November 1946, during the second part of the

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First Session of the General Assembly, an attempt on the lives of two Assembly delegates from the Ukrainian SSR, Vayn and Stadnik, was made in the center of New York City, and Stadnik was seriously wounded. The American authorities and the American press tried to describe this incident as an assault with intent to rob, although from all indications the crime had a political character. D. Z. Manuil'skiy, Minister of Foreign Affairs of the Ukrainian SSR, addressed a letter to the United States Secretary of State, stating that "all the circumstances of this assault, as evident from the statements of the victims, Vayn and Stadnik, give reason to believe that in this case we are concerned not with an act of robbery, but with a premeditated attempt on the lives of two delegates to the United Nations General Assembly." He further states in his letter, "The delegation of the Ukrainian SSR invites your attention to the fact that similar actions, directed against the life and security of members of a delegation to the United Nations, are occurring in the place where the United Nations Organization is located, and the fact that the malefactors have not yet been apprehended" (21).

The United States Government did not take the necessary measures either to protect the personal security of delegates to the General Assembly or to prosecute the guilty parties, showing a passiveness which cannot be permitted a member of the United Nations, and especially a State on whose territory the residence of the Organization is located.

The right of extraordinary defense for staff members of an international organization and the State-Members accredited as delegates to the organization is first of all the responsibility of the State on whose territory the residence of the international organization is located. As we know, the Swiss Penal Code of 1927 established increased penalties for an offense against the Secretary General of the League of Nations and the Director of the International Labor Bureau (although the *modus vivendi* did not contain a similar obligation for Switzerland). In the Convention on Privileges and Immunities of the United Nations and in the Agreement between the United Nations and the United States Government, nothing is said on this subject. Neither is there mention of it in the British Parliamentary Act of 1944 or the United States Statute of 1945. Nevertheless, both from the above statements and from a consistent interpretation of official acts, one must reach the following conclusions: The State delegates to the United Nations must be entitled to extraordinary defense in criminal procedures to the same extent as diplomatic representatives (22). Higher officials of the Organization are held to be equal, in the matter of immunity, to diplomatic representatives, and consequently must also be entitled to extraordinary defense in criminal procedures. Finally, so far as the remaining staff members of the Organization are concerned, they are not entitled to extraordinary defense, inasmuch as this right does not follow from the contents of the pertinent standards established by conventions (or by law), either directly or indirectly.

The immunity of delegates and officials of the United Nations from measures of constraint on the part of State organs is connected with immunity of jurisdiction, which is discussed in the next section.

Immunity From Jurisdiction

In principle, State delegates to the United Nations and higher officials of the Organization must enjoy immunities from jurisdiction to the fullest extent, since both categories of persons correspond to the category of diplomatic representatives. Other officials enjoy immunities necessary for the exercise of their functions only, in accordance with the precise meaning of Paragraph 2, Article 105, of the Charter. Treatment of this question in special documents conforms only to the general lines of the principle stated above, while concrete provisions are characterized by a certain inconsistency.

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According to the Convention of Privileges and Immunities of the United Nations, representatives of Member States and experts accomplishing missions for the Organization enjoy immunities from personal arrest or detention and from seizure of personal baggage, and immunities from legal process of every kind "in respect of words spoken or written and all acts by them in their capacity as representatives" (Section 11, Paragraph a) or "in the course of the performance of their mission" (Section 22, Paragraph a). Officials enjoy immunities from legal process "in respect of words spoken or written and all acts performed by them in their official capacities" (Section 18, Paragraph a).

With respect to the Secretary General and his assistants, immunity from jurisdiction must be applicable to a much broader extent than for other officials, since in addition to privileges enjoyed by the officials they are accorded "privileges and immunities, exemptions and facilities accorded to diplomatic envoys" (Section 19). With regard to experts, probably because of the temporary character of their missions, it is added that their immunity from legal process for actions accomplished during their mission shall continue permanently "notwithstanding that the persons concerned are no longer employed for missions in the United Nations" (Section 22, Paragraph 6) (23). Thus representatives of Member States, higher officials, and experts enjoy complete immunity from coercive measures and legal immunity with regard to their official actions, whereas other officials enjoy the second immunity only (24).

During the negotiations of the Secretary General of the United Nations with the United States Department of State for the conclusion of an agreement regarding the district of the United Nations headquarters, representatives of the Department of State tried by all available means to reduce the scope of immunity from jurisdiction accorded United Nations officials or Members on United States territory. As the Secretary General's report pointed out, "The representatives of the Department of State have been at pains to point out that the immunities provided for in Article 4 (of the Agreement--author) should be accompanied by a reservation covering cases where persons enjoying such immunities engaged, outside their official duties, in acts which would normally come within the scope of the American laws" (25). [The official United Nations translation in Russian reads, "within the scope of the American deportation laws."]

As a result, a compromise decision was adopted which served as a basis of Section 13, Article 4, of the Agreement. According to the provisions of this section, higher officials of the United Nations and of the specialized agencies ("persons who are entitled to diplomatic privileges and immunities under Section 15 or under the General Convention") "shall not be required to leave the United States otherwise than in accordance with the customary procedure applicable to diplomatic envoys accredited to the United States."

The jurisdiction of United States immigration authorities may be extended to other officials of the United Nations and of the Specialized Agencies, to Members of the United Nations, to experts, representatives of the press, radio, movies, and other mediums of information, and to representatives of nongovernmental agencies as stipulated in Article 2 (see below for complete enumeration according to the text of Article 2). However, certain limitations are provided in Section 13, namely, the prior approval of the United States Secretary of State is required, and the representatives of the organization or State concerned have the right to participate in the proceedings (26). It appears from the Secretary General's report that to justify the limitations placed on the scope of the immunities, it has been pointed out on the part of the United States that "the United States is the host country and not the country to which beneficiaries of Article 4 are accredited" (27). [This quotation is taken from the official English text. In the official United Nations Russian translation the words "the United States is the host country" appear as "the United States is the country which has made its (the United States') territory available to the United

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Nations Organization," while the present Russian text in translation reads, "the United States is the country which has made available to the United Nations its (the United Nations') residence."

However, even these partly limited immunity provisions are not observed by the United States Government. It is known, for example, that in December 1947 the Greek and Egyptian correspondents Kiriavidiis and Hassan, accredited to the United Nations, were arrested by the United States Government in connection with their activities as correspondents. They were arrested because the opinions expressed in their dispatches did not please the United States Government. In connection with the cases cited, the Secretary General of the United Nations submitted written statements to the Department of State in which he referred to the violation of the articles of the Agreement committed by the United States Government and pointed out that "he would be grateful for a speedy consideration of the case in accordance with the Agreement on the United Nations headquarters" (28). Instead of satisfying this legitimate request made by the Secretary General of the United Nations, the Department of State attempted to exert pressure on the United Nations and to interfere with its activities. The Department of State declared itself "ready at any time to appoint a group of its representatives to meet with United Nations representatives and recommend a thorough reconsideration of the system of accrediting journalists to the United Nations" (29).

Thus the United States Government, motivated by the reactionary tendencies of its domestic and foreign policies, not only restricts so far as possible but grossly violates international obligations to which it is committed as a member of the United Nations and especially as the State on whose territory the residence of the United Nations headquarters is located.

Immunity of Residence

The immunity of the residence of officials of international organizations presents a rather special problem. According to the Statute of the League of Nations (Article 7, Paragraph 5), buildings and land occupied by the League were covered by immunity, but the *modus vivendi* of 1926 did not provide for immunity of personal residence of League staff members. A new situation has arisen in the United Nations, due to the existence of a special "district of the United Nations headquarters" on United States territory. According to the Agreement between the United Nations and the United States Government (Section 9), "The headquarters district shall be inviolable" (30), and the United States will undertake to preserve law and order in the district (Section 16) (31). With regard to jurisdiction in the district, since "The headquarters district shall be under the control and authority of the United Nations" (Section 7), the latter "shall have the power to make regulations, operative within the headquarters district, for the purpose of establishing therein conditions in all respect necessary for the full execution of its functions" (Section 8). However, "except as otherwise provided in this agreement or in the General Convention, the federal, state, and local law of the United States shall apply within the headquarters district" (Section 7B) and "state and local courts of the United States shall have jurisdiction over acts done and transactions taking place in the headquarters" (Section 7C). Officials of any organization representing the United States authority "shall not enter the headquarters district to perform any official duty therein except with the consent of and under the conditions agreed to by the Secretary General" (Section 9) and the United Nations may exclude persons from the district for violation of regulations established under Article 8 or for other cause (Section 10) (32).

Thus the residence privileges of the United Nations include jurisdiction over matters essential to the functioning of the Organization, but

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exclude any other jurisdiction on American territory. Acts done within the limits of the headquarters district, insofar as these acts have no bearing on United Nations activity and are covered in no other way by immunity, fall within the jurisdiction of United States courts. The only restriction made is that United States courts in examining cases arising from such acts "shall take into account the regulations enacted by the United Nations under Section 8" (Section 7) (33).

The immunity of the United Nations' residence is unquestionably extended over any premises officially or privately occupied by representatives of Member States or Organization officials and located within the headquarters district. However, the question is whether these persons enjoy immunity of residence outside the district. The Convention on Privileges and Immunities of the United Nations, besides the inviolability of its premises and archives and the immunity of its property and assets "wherever located" (Sections 3 and 4), provides for inviolability of personal baggage and documents of representatives of Member States (Section 11, Paragraphs b and f) and experts (Section 22, Paragraphs c and f), but does not provide for inviolability of their private premises, any more than such inviolability is provided to officials of the Organization. However, since representatives of Member States, the Secretary General and his assistants are accorded all privileges of diplomatic envoys, besides those stipulated, we should recognize that these persons enjoy immunity of both official and private premises even outside the district (34).

In general, outside the limits of the headquarters district, representatives of Member States and higher officials of the United Nations shall enjoy immunity of both official and private premises similar to that enjoyed by diplomatic envoys, whereas other officials of the Organization shall enjoy immunity of official residence only as foreign official agents with no diplomatic status enjoy it.

In the agreement between the United Nations and the United States, however, there is a restrictive clause regarding delegations of United Nations Members not recognized by the United States. This clause provides that officials of such delegations are accorded no immunity whatsoever while they are outside the limits of the headquarters district or outside their official residence, if the latter is outside the headquarters district (35). Therefore, outside the headquarters district these officials are denied immunity of private residence. Such a restriction not only contradicts provisions of the Convention on Privileges and Immunities of the United Nations, but does not stand up to criticism from the viewpoint of the general principles of the United Nations Charter. The international legal status of officials of all the United Nations Members must be the same regardless of whether or not a United Nations Member is recognized by the government of the State where the United Nations' residence is located. The restriction makes possible a deliberate discrimination against some Members of the United Nations by the United States Government.

Freedom of Transport and Communication

The peculiarity of this privilege with regard to officials of international organizations is that the matter dealt with is: first, for an international organization and its officials, freedom of transport to the location of, and communication with, Governments of all countries and other international organizations and not with an organization of some given country; and second, freedom of transport for officials of States, other international organizations, and nongovernmental agencies present in the Organization's residence, rather than only for delegates of Member States and officials of the Organization. In the *modus vivendi* of 1926, this question was merely touched upon,

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but in international documents on the United Nations it has been developed in great detail. The first peculiarity mentioned above was reflected in the Convention on Privileges and Immunities of the United Nations, and the second in the Agreement between the United Nations and the United States.

The Convention provides that the United Nations, for its communications by telegraph, radio, telephone, etc., "shall enjoy treatment not less favorable than that accorded by the Government of that Member to any other Government including its diplomatic mission," that "no censorship shall be applied to the official correspondence and other official communications of the United Nations," (Section 9) and that "the United Nations shall have the right to use codes and to dispatch and receive its correspondence by courier or in bags which shall have the same immunities and privileges as diplomatic couriers and bags" (Section 10). The same right to use codes and diplomatic mail is accorded representatives of Member States (Section 11, Paragraph c) and experts (Section 22, Paragraph d).

Staff members of the United Nations (excluding service employees) holding a laissez-passer delivered by the Organization shall obtain visas "as speedily as possible" and shall be granted facilities for "speedy travel" when traveling on business for the United Nations (Section 25). Similar facilities shall be accorded experts and other persons who "though not holders of United Nations laissez-passer, have a certificate that they are traveling on business for the United Nations" (Section 26). These facilities shall also be applied to officials of specialized agencies if adequate agreements so provide (Section 28). The Secretary General and his assistants traveling on business for the United Nations "shall be granted the same facilities as are accorded to diplomatic envoys" (Section 27) (36).

According to the Agreement between the United Nations and the United States (Section 11), "The federal, state, or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations, or of specialized agencies as defined in Article 57, Paragraph 2, of the Charter, or the families of such representatives or officials; (2) experts performing missions for the United Nations or for such specialized agencies; (3) representatives of the press, or of radio, film, or other information agencies, who have been accredited by the United Nations (or by such a specialized agency) in its discretion after consultation with the United States; (4) representatives of nongovernmental organizations recognized by the United Nations for the purpose of consultation under Article 71 of the Charter; or (5) other persons invited to the headquarters district by the United Nations or by such specialized agency on official business. The appropriate American authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district." Further (Section 13), it is provided that visas to these persons "shall be granted without charge and as promptly as possible" (37).

In practice, it has been demonstrated that the United States is inclined to grossly violate these provisions, thus causing considerable prejudice to the normal activity and to the authority of the United Nations. Before the opening in New York of the Third Session of the United Nations Commission on Human Rights in May 1948, the Government of the United States refused to grant entry visas to the delegates of the Ukrainian and Belorussian SSRs. The United States Government returned their passports, stating that visas would not be granted unless these delegates filled out special questionnaires, which were requested of only a few countries, and therefore discriminatory. It was only after insistent requests by the Foreign Minister of the USSR that the Ukrainian and Belorussian delegates received their visas for admission. Because of the delay, however, they could not arrive in New York for the opening of the Session on 24 May, and for that reason the work of the

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Session on the main problems was postponed for 2 days.

After the opening of the session the USSR delegate made a protest on the part of the USSR Government and the Governments of the Ukrainian and Belorussian SSRs. He protested the violation by the United States Government of its agreement obligations toward the United Nations on the grounds that the United States had set up obstacles to the normal work of the United Nations and its organs. "It is not only the interests of my country I defend," stated the Soviet delegate when this question was examined at the first meeting of the Commission, "but those of all the United Nations."

A number of delegates recognized that such a violation by the United States Government of the agreement with the United Nations was inadmissible. Proposed by the USSR delegate, the following special resolution was adopted by the Commission: "The United Nations Commission on Human Rights informs the Secretariat General of the United Nations that delegates of the Ukrainian and Belorussian SSRs could not arrive in time for the session of the Commission, for reasons beyond their control and connected with the violation of the well-known agreement of 6 June 1947 approved by the General Assembly on 31 October 1947. The Commission calls the attention of the Secretariat General to the necessity of taking measures in order to prevent similar cases from arising in the future" (38). A similar resolution (with two additions which do not alter its nature) was included in the Commission's report on the work of the session, presented to the Economic and Social Council (Section 6) (39).

The United Nations documents of the Commission on Human Rights were not available. The above text is a verbatim translation of the quotation in the present article. The official French text of the report of the Commission on Human Rights to the Economic and Social Council (Document E/800, Section 6) reads: "The Commission called to the attention of the Secretary General the fact that if these representatives could not arrive in time to be present at the beginning of the Third Session of the Commission, it was for reasons beyond their control, and that some members felt that this delay was in contradiction with the Agreement adopted 31 October 1947 by the General Assembly. It /the Commission/ also called to the attention of the Secretary General the necessity of taking measures in order to prevent such incidents' being repeated in the future."/

Other more or less similar cases had occurred previously. All these cases testify to the existence of an obvious danger that the United States Government will take advantage of the presence of the United Nations on United States territory.

Fiscal and Other Immunities

The following rules may be considered as universally recognized: international organizations themselves are exempted from direct taxes on their properties and from customs duties on articles imported from abroad for official use; higher officials of international organizations enjoy the same exemptions from direct taxes and customs duties as are accorded diplomatic envoys; other officials enjoy only exemption from taxes on salaries and emoluments paid to them by the United Nations and from customs duties on their furniture and effects at the time of their first arrival in the country. Each of the above types of facilities has appeared in all the documents which have been mentioned (40).

Moreover, representatives of States in international organizations and officials of these organizations enjoy facilities for currency exchange, exemption from immigration restrictions, alien registration, national service obligations, etc. (41). No protocol privileges for international officials

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were provided in the official acts which have been mentioned.

Are the privileges and immunities of delegates and officials of the United Nations, as described above, to be extended to members of their families and servants? According to the Convention on Privileges and Immunities of the United Nations, spouses and minor children of United Nations officials are exempted from immigration and aliens' restrictions (Section 18, Paragraph d) and are given facilities for repatriation in time of international crisis (Section 18, Paragraph f), while spouses and minor children of the Secretary General and Assistant Secretaries General are accorded all privileges and facilities accorded to corresponding members of diplomatic envoys' families (Section 19) (42). Servants are not mentioned in the Convention (43). In principle, the privileges and facilities mentioned must be accorded members of families of permanent representatives of States to the United Nations and higher officials of the Organization (provided, of course, that they live together). Members of families of other officials must be accorded only certain facilities which would ensure free travel to the location of the official's work and living conditions at such location exempted from special administrative restrictions. The same facilities must be granted to private employees of all officials in order to ensure their free selection of servants.

In conclusion, it should be pointed out that delegates of the Soviet Union, the Ukraine, and Belorussia reserved their positions on two points when the draft Convention on Privileges and Immunities of the United Nations was under discussion in the Sixth Committee of the General Assembly. The first point pertains to the possibility of extending the immunity from national service obligations (military service, for instance) of United Nations officials to citizens of the Member State, as provided in Section 18, Paragraph c, of the Convention. The second point relates to the recognition of a compulsory jurisdiction of the International Court of Justice over differences and disputes arising out of the interpretation of application of the Convention, as is provided in Section 30 of that Convention. Since both questions raised constitutional problems touching upon rights of a State's internal competence, the Soviet delegations declared that it was impossible to adopt these provisions of the Convention (i.e., Paragraph c of Section 18, and Section 30) without first consulting the most authoritative bodies in their countries (44).

* * *

Such are some of the problems of immunities of delegates and officials of the United Nations. More complete and exhaustive development of the subject will only be possible after study and generalization of new practice.

[End of text]

FOOTNOTES

1. Section 17 of the Final Article adopted of the Berlin Conference of 1885 provided "the right of immunity in the exercise of their functions" for members and agents of the International Commission on Navigation on the Congo River. Section 2 of the Greek Law of 1898 accorded to members of the International Commission on Control of Greek Finances the same rights enjoyed "by members of missions accredited to Greece." Section 24 of the Hague Convention of 1899 on the Pacific Settlement of International Disputes provided that members of the Permanent Court of Arbitration of The Hague "when carrying out their functions and while outside of their own country enjoy diplomatic privileges and immunities." In 1903 a law was passed in France providing that

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"members of the Court of Arbitration, not French citizens, sitting in France by virtue of the Convention on the Pacific Settlement of International Disputes signed in The Hague on 29 June 1899, shall enjoy diplomatic privileges and immunities in the exercise of their functions." The text of Section 24 of the Hague Convention of 1899 [sic] was also incorporated in the Convention on Pacific Settlement of International Disputes adopted in 1907 (Section 46), and in the draft Convention on the International Prize Court, 1907 (Section 13). The same year, 1907, the Washington Convention on the Central American Court was concluded, which provided (Section 10) that members of the Court shall enjoy in their own country the same personal immunity that members of the country's higher court enjoy, and in other South American Republics the privileges and immunities of diplomatic agents (cf. Fr. Rey, "Les Immunités des Fonctionnaires Internationaux," *Revue du Droit Int. Prive*, Vol XXIII, 1928, pp 263, 264, 267, 274, 275).

2. Cf. Collection of Treaties, Agreements, and Conventions in Force, Concluded With Foreign Countries, Izd. NKID (Publishing House of the People's Commissariat of Foreign Affairs), 1935, p 40.

3. The text of the *modus vivendi* of 1926 was published in the Journal Officiel de la Société des Nations, 1926, No 10, pp 1244-1424, the text of the Agreement in the same journal, 1928, No 7, pp 985-987.

4. Section 297 of the Swiss Penal Code of 1937, under the heading "Offenses Against the League of Nations," provides that "he who shall publicly offend a representative delegated to the Assembly or the Council of the League by a Member State, or he who shall publicly offend the Secretary General of the League or the Director of the International Bureau of Labor is liable to imprisonment or fine" (Swiss Penal Code, Izd. NKYu SSSR (Publishing House of the People's Commissariat of Justice of the USSR), Moscow, 1941, p 64).

5. These commissions included the Repatriation Commission, the Commission for the Regulation of the Straits, Commissions on the Rhine and Danube Rivers, etc.

6. Cf. Annuaire de l'Institut de Droit International, Vol XXXI, Louvain, Paris, 1925, pp 179-180.

7. Cf. Charter of the United Nations and Statute of the International Court of Justice, Gospolitizdat, Moscow, 1945, p 38. With regard to the two regional organizations existing at present, the Pan-American Union and the Pan-Arabian League, the question of the secretariat officials of the Pan-American Union is still unsettled in the Union's instruments, while in the judicial and administrative practice of the United States, the question is not always resolved in the same manner (cf. V. Durienevskiy, "The Pan-American Union," Sovetskoye Gosudarstvo, No 8-9, 1940, p 194). On the other hand, the pact of the Arab League countries, 1945, Section XIV, establishes that "members of the Council of the League and members of their staff provided by internal statute will enjoy diplomatic privileges and immunities in the execution of their functions" (cf. International Documents, Supplement to the periodical Mirovoye Khozyaystvo i Mirovaya Politika, No 1-2, 1945, p 29).

8. Cf. Resolutions Adopted by the General Assembly of the United Nations During the First Part of Its First Session, Ministry of Internal Affairs, USSR, Moscow, 1948, pp 98-107. By 1 September 1948 the following countries acceded to the Convention: Great Britain, the Dominican Republic, Liberia, Iran, Panama, Honduras, El Salvador, Guatemala, Ethiopia, Haiti, France, Norway, Sweden, Afghanistan, Philippines, Nicaragua, New Zealand, Mexico, Greece, Poland, Canada, the Netherlands, Iceland, India, and Denmark. Bolivia, Brazil, and the United States acceded to the Convention, but as yet have not sent their formal instruments of accession.

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9. Cf. United Nations. General Assembly, Document A/371, 3 September 1947.

10. Ibid. In addition, the General Assembly during the first session adopted the Resolution of the Coordination of the Privileges and Immunities of the United Nations and the Specialized Agencies. This resolution states: "While recognizing that all specialized agencies require all the privileges and immunities which may be needed by others, and that certain of these may, by reason of their particular functions, require privileges of a special nature which are not required by the United Nations itself, the General Assembly considers that the privileges and immunities of the United Nations should be regarded [the words "as a general rule" appear in the official English text of the resolution at this point] as a maximum within which the various specialized agencies should enjoy such privileges and immunities as the appropriate fulfillment of their respective functions may require, and that no privileges and immunities which are not really necessary should be asked for" (Resolutions of the General Assembly, p 128). During the second part of the First Session of the General Assembly, the following resolutions were adopted: Privileges and Immunities of Staff Members of the United Nations; Privileges and Immunities of the International Court of Justice, the Registrar of the Court, Officials of the Registry, Assessors, the Agents and Counsel of the Parties and of Witnesses and Experts; Interim Arrangement on the Privileges and Immunities of the United Nations concluded with the Swiss Federal Council, and Agreement Concerning the Ariana Site.

11. Cf. Butterworth's Emergency Legislation Service, Statutes, London, 1941-1945; Supplement, 1945, No 27, pp 18-21.

12. Cf. Butterworth's Emergency Legislation Service. Annotated. Regulations Service, First Binder, London, 1945, 7 (Constitutional Law), p 7 (39), (40), (41); also The Law Journal, Vol XCIV, 18 January 1946, No 1475, p 26.

13. Cf. American Journal of International Law, Vol 40, 1946, No 2, Official Documents, pp 85-90.

14. Cf. L. Preuss, "The International Organization Immunities Act," American Journal of International Law, Vol 40, 1946, 334. In addition to the laws mentioned, Canada and China during the war (in 1941 and 1943, respectively) passed special regulative acts according privileges and immunities to the International Labor Organization and its personnel (op. cit., pp 336 and 338).

15. Consequently, in the *modus vivendi* of 1926 concluded between the Secretariat of the League of Nations and the Swiss Government, this category of persons is not mentioned at all. Rey, commenting on Section 7, Paragraph 4, of the Statute of the League of Nations, remarks that "probably with regard to representatives of the Members of the League of Nations, no difficulties should arise" (Rey, op. cit., p 258).

16. Resolutions of the General Assembly, p 102.

17. Cf. United Nations, Document A/971 [sic].

18. Resolutions of the General Assembly, pp 103 and 104.

19. Insofar as office and service personnel are specifically concerned, they do not have the right, in principle, to the immunity enjoyed by similar personnel of diplomatic missions. In the Convention on Privileges and Immunities of the United Nations, no special clause distinguishes them from other staff members of the Organization. However, according to recommendations presented by the Secretary General at the second part of the First Session of

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the General Assembly (in keeping with Section 17 of the Convention), privileges and immunities provided in Article 5 (Officials) and Article 7 (Laissez-Passer) are extended "to all members of the staff of the United Nations with the exception of those who are recruited locally and who are assigned to hourly rates" (United Nations Document A/116, 16 October 1946). A list of personnel who do not enjoy privilege is added to the recommendation and pertains only to service personnel (electricians, firemen, gardeners, char force, etc.).

20. "If the offense of a diplomatic representative," he writes, "can cause complications in the relations between States, and for this reason [the offender] is severely penalized by the legislation of the majority of States, this is not applicable to offenses which might be the subject of complaints by international officials. No special jurisdiction and no special penalties are applicable for their defense, but the general law is applied to them, as in each instance only their personal rights are concerned and not the international institution which they represent" (Rey, op. cit., p 449).

21. Cf. Pravda, 25 November 1946.

22. Swiss court procedure at the time of the League of Nations confirmed the correctness of this conclusion. In 1927 the Federal Court of Assize decided, in the action concerning Just [transliterated name] (25 January 1927) over an offense against a delegate of a Member-State of the League of Nations, that Switzerland ipso facto extends special protection and, especially, inviolability to persons who have newly acquired diplomatic immunity, which until then had been given (only) to diplomatic representatives accredited in Bern (see Revue de Droit Int. Prive, Vol XXII, 1927, p 550; and S. Basdevant, Les Fonctionnaires Internationaux, Paris, 1931, p 309, note).

23. Resolutions of the General Assembly, pp 101, 103, 104.

24. According to the British Parliamentary Act of 1944, the representatives of governments and higher officials of international organizations enjoy "the like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power to His Majesty" (Supplement, Part II, Article 1), i. e., a complete immunity from jurisdiction; while other officials and servants enjoy "immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of their official duties" (Supplement, Part III, Article 1)--cf. Butterworth's Supplement, No 27, p 21).

According to the American law of 1945 (Section 7, Paragraph b) "representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers or employees" (cf. American Journal of International Law, Vol 40, No 2, Official Documents, p 89).

25. United Nations Document A/371, p 8

26. According to Section 13: (1) "No proceeding shall be instituted to require any such person to leave the United States except with the prior approval of the Secretary of State of the United States. Such approval shall be given only after consultation with the appropriate Member in the case of a representative of a Member (or a member of his family) or with the Secretary General or the principal executive officer of the appropriate specialized agency in the case of any person referred to in Section 11"; (2) "Representatives of the Member concerned, of the Secretary General, or of the principal Executive Officer of the appropriate specialized agency, as the case may be, shall have the right to appear in any such proceedings on behalf of the person against whom they are instituted" (United Nations Document A/371).

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[This quotation is from the text of the Russian periodical. In the official United Nations document in English, the beginning of the first paragraph reads as follows: "No processing shall be instituted under such laws or regulations to require..."etc. The Russian official text also omits the words "under such laws and regulations." The beginning of the second paragraph in both English and Russian official United Nations documents reads: "A representative of the Member concerned, the Secretary General, or the principal Executive Officer of the appropriate specialized agency..."etc.]

27. Cf. United Nations, Document A/371, p 9

28. Cf. Pravda, 24 and 25 December 1947

29. Cf. Pravda, 27 December 1947

30. Cf. United Nations, Document A/371

31. Paragraph a: "The appropriate American authorities shall take [dolzhny prinyat', "perfective form of the verb "prinimat', "implies action definitely to be completed, i. e., measures are to be taken and carried through/ adequate measures to ensure that the tranquility of the headquarters district is not disturbed by any unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity. For this purpose such police force as is necessary shall be provided;" Paragraph b: "The authorities shall provide a sufficient number of police for the preservation of law and order in the headquarters district and for the removal therefrom of persons as requested under the authority of the United Nations. The United Nations shall, if requested, enter into arrangements with the appropriate American authorities to reimburse them for the reasonable cost of such services" (cf. United Nations Document A/371).

[The above is a direct quotation from the Russian periodical. The official United Nations Russian version read--Paragraph a: "The appropriate American authorities shall take (dolzhny prinimat', the imperfective form of the verb, implying here that action is to be taken whenever the situation might require such action. The beginning of Paragraph b of the official document (see below), omitted in the quotation by the author of this article, indicates when the action is to be taken) adequate measures to assure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of persons from outside or by disturbances in its immediate vicinity. For this purpose such a police force as is necessary to protect the boundaries (the word "boundaries" is omitted in the quotation in the present article) of the headquarters district shall be provided." Paragraph b "If so requested by the Secretary General the appropriate American authorities shall provide a sufficient number of police..." etc.

The official United Nations text in English reads as follows -- Paragraph a: "The appropriate American authorities shall exercise due diligence to ensure that the tranquility of the headquarters district is not disturbed by the unauthorized entry of groups of persons from outside or by disturbances in its immediate vicinity and shall cause to be provided on the boundaries of the headquarters district such police protection as is required for these purposes." The official United Nations Russian text of Paragraph b is an exact rendition of the official United Nations English text.

32. Cf. United Nations, Document A/371

33. Ibid.

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34. The British Parliamentary Act of 1944 guarantees inviolability of archives and buildings to international organizations (Butterworth's Supplement, Part I, Article 2), and entitled the representatives of Governments and higher officials to the same inviolability of residence as diplomatic representatives (Supplement, Part II, Article 2), i. e., immunity not only of official, but of personal quarters. With regard to other officials and the servant staff, nothing is said about immunity of residence (cf. Supplement, Part III) and, therefore, this immunity is not extended to them beyond the limits of the official quarters belonging to the international organization itself. The American Statute of 1945 deals with the immunity of archives of an international organization (Section 2, Paragraph b), but other than this it mentions only the immunity of the property and assets of the organization from search and every form of judicial process (Section 2, Paragraphs b and c), and immunity from legal process of representatives, officers, and employees (Section 7, Paragraph b). No special mention is made in the Statute of the immunity of residence.

35. According to Section 15, "In case of Members whose governments are not recognized by the United States, such privileges and priorities [in both the official United Nations English and Russian texts, the word "priorities" appears as "immunities"] need be extended to such representatives, or persons of the staffs of such representatives, only within the headquarters district, at their residence and offices outside the district, in transit between the district and such residences and offices, and in transit on official business to or from foreign countries."

36. All quotations are from the Resolutions of the General Assembly, pp 100, 101, 105, 106.

37. The American law of 1945 provides only that representatives of governments and international organizations, officers and employees "shall, insofar as concerns laws regulating entry into and departure from the United States" be entitled "to the same privileges, exemptions [exemptions] has been omitted from the present Russian text/, and immunities as are accorded under similar circumstances to officers and employees, respectively [respectively] is omitted from Russian text/, of foreign governments, and members of their families" [and members of their families] omitted from Russian text/.

38. Cf. Pravda, 26 May 1947

39. Cf. Pravda, 21 June 1947

40. The Convention on Privileges and Immunities of the United Nations provides that the assets, income, and other property of the Organization shall be exempted from all direct taxes, and that articles imported for official use and United Nations publications shall be exempted from customs duties (Section 7); officials of the Organization shall be exempted from taxation on salaries paid to them by the Organization (Section 13, Paragraph b), and from customs duties on furniture at the time of first taking up their post (Section 18, Paragraph g). No special provision is made for representatives of Member States, experts, and the Secretary General and his assistants, but representatives of Member States, and the Secretary General and his assistants enjoy all the facilities of diplomatic envoys, including fiscal immunity, while it is dubious that experts need such immunity because of the temporary nature of their mission (cf. Resolutions of the General Assembly, pp 100 and 103).

The British Parliamentary Act of 1944 provides that international organizations enjoy the exemption from taxes accorded a foreign State and exemption from customs duties on goods imported for official needs (Supplement, Part I, Articles 3 and 4); government representatives enjoy the

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exemption from taxes enjoyed by diplomatic envoys (Supplement, Part II, Article 3), while other officials and servants are exempted from income taxes on emoluments received for work in the organization (Supplement, Part III, Article 2, Paragraph "b"---Butterworth's Supplement, No 27, p 21). Facilities in the United States Statute of 1945 are defined somewhat differently: international organizations enjoy the same exemptions from customs duties and various taxes as a foreign government (Section 2, Paragraph c; Sections 3, 4 and 6). After analyzing the Statute, the conclusion may be drawn that representatives, officials and employees of international organizations enjoy the same facilities as are accorded representatives, officials, and employees of foreign governments.

41. Cf., for instance, the Convention on Privileges and Immunities of the United Nations, Section 11, Paragraphs d and e; Section 18, Paragraphs d and e; and Section 22, Paragraph e (Resolutions of the General Assembly, pp 101, 103, 105).

42. Ibid, pp 103 and 104

43. In the British Parliamentary Act of 1944, no special mention is made of members of families or house servants, but since representatives of governments and higher officials of international organizations enjoy the privileges of diplomatic envoys accredited to Great Britain, as this Act provides, such privileges are extended to members of their families and (according to the British legislation) to house servants. The United States Statute of 1945 extends to "members of immediate families" of government representatives to international organizations, and to officials and organizations' employees "residing with them" the same facilities as are enjoyed by members of the families of officials and employees of foreign governments with regard to entrance in and departure from the United States, alien registration, fingerprinting, etc. The Statute does not extend immunity from legal process to family members. Under the Statute, house servants are accorded no facilities at all.

44. Cf. Declaration of the Delegate of the Ukrainian SSR at the 11th meeting of the Sixth Committee of the General Assembly on 7 February 1946 in the Journal of the General Assembly of the United Nations, 1946, No 26 (Supplement, p 30).

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